Exhibit 1017

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

OMNIA MEDICAL, LLC, Plaintiff, v. PAINTEQ, LLC, Defendant.	Case No. 8:22-cv-00145-VMC-TGW

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to the Court's Case Management Order at *2 (Doc. 29), PainTEQ, LLC ("PainTEQ") and Omnia Medical, LLC ("Omnia") hereby submit this Joint Claim Construction Statement.

Counsel for the parties have conferred regarding the claim terms in dispute and have been unable to narrow the disputes between the parties. Each party's proposed construction for the disputed claim terms are set forth below.

The parties will promptly notify the Court if they agree on any constructions prior to the claim construction hearing.

I. AGREED CONSTRUCTIONS

None.

II. DISPUTED CONSTRUCTIONS

U.S. Patent No. 11,083,511 Claim Numbers	U.S. Patent No. 11,083,511 Claim Term	Omnia's Preliminary Proposed Construction	PainTEQ's Preliminary Proposed Construction
10.e, 15, & 18.e	driving said fusion implant	Advancing the fusion implant	Applying a force via an impactor or torqueing tool onto the fusion implant to advance the position thereof
1.d, 2, 10.d, 10.e, 15, 18.c, & 18.e	protrusion (in reference to the fusion implant)	Something that extends from a main body	A structure extending from the fusion implant configured to pierce or penetrate bone tissue
1.d, 2, 10.d, 10.e, 18.e, & 19	"engages with bone tissue," "engagement of said at least one protrusion with said ilium and sacrum," "engagement with said bone tissue," and "engage with said articular surfaces	Creates a mechanical engagement between a protrusion and the bone	Interlocking with bone tissue in a piercing or penetrating manner in order to resist retractive forces
1.d, 10.e, & 18.e	preventing pullout	Securing into position	Immobilizing (the fusion implant) against non-destructive removal via the application of a linear retraction force
1.b & 14.b	controlling the advancement	Guiding forward motion	Arresting the extent of axial progress (*alternate construction*) Controlling the depth of advancement
2, 10.e, & 19	fixes relative positions	Secures positions of the bones	Mechanically holds the relative positions

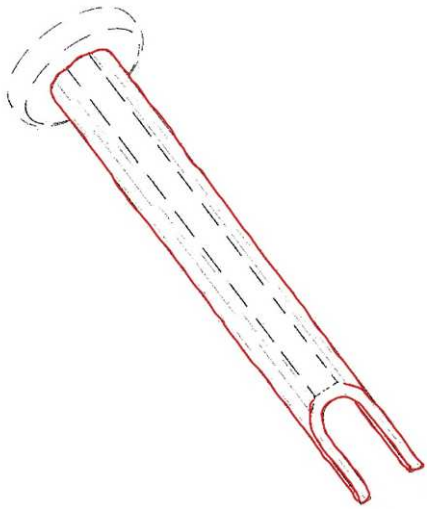
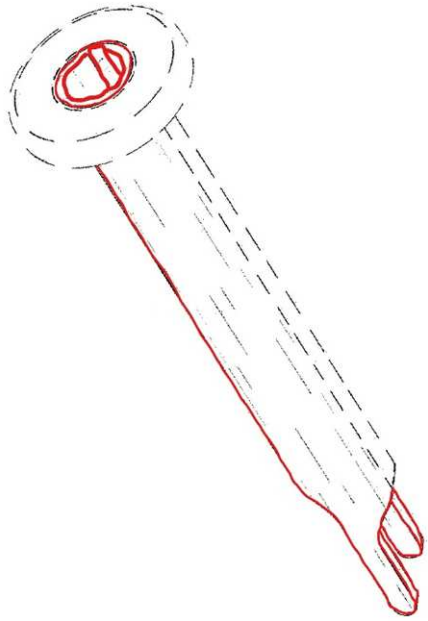
U.S. Design Patent No. D922,568	Omnia's Preliminary Construction (Functionality)	PainTEQ's Preliminary Construction (Functionality)
Fig. 1  **Fig. 2** 	Omnia Medical objects to the included parsing of elements of the design patent as this is an attempt to pursue invalidity as opposed to claim construction. Without waiving the objection, Omnia Medical provides that, "When there are several ways to achieve the function of an article of manufacture, the design of the article is more likely to serve a primarily ornamental purpose." *L.A. Gear, Inc, v. Thom McAn Shoe Co.*, 988 F.2d 1117 (Fed. Cir. 1993). Claim construction for design patents distinguishes functional aspects	The elements of the 'D568 Patent outlined in red in the accompanying figures are purely functional and, therefore, not protectable.

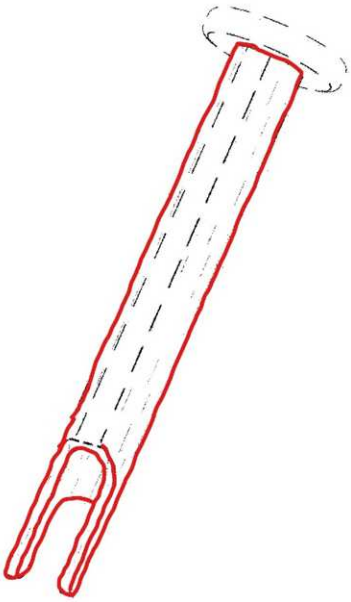
Fig. 3 	from ornamental aspects (e.g., the function of a tang vs. the particular shape and appearance of the tang), but design structures cannot be excluded from the overall design on the basis that they serve a functional purpose: "While we agreed that certain elements of the device were functional, their functionality did not preclude those elements from having protectable ornamentation". *Sport Dimension, Inc. v. Coleman Co.*, 820 F.3d 1316, 1321 (Fed. Cir. 2016).	
Fig. 4 		

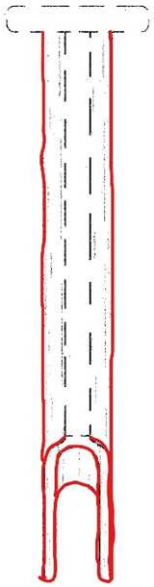
Fig. 5 		
Fig. 6 		

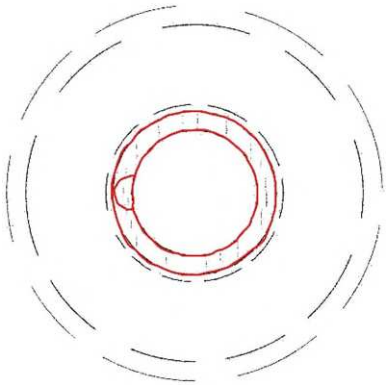
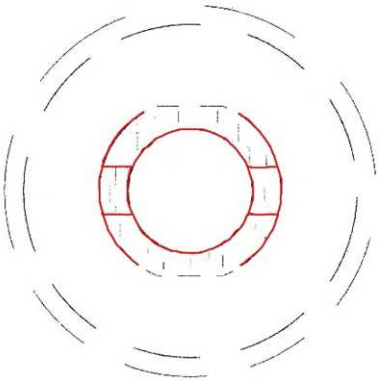
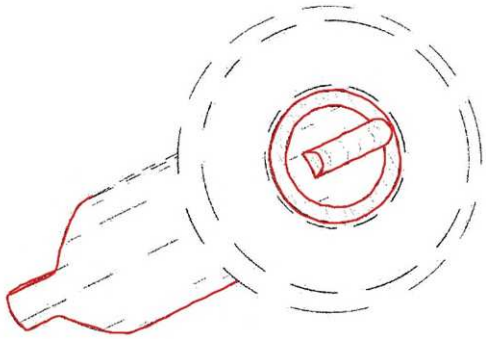
Fig. 7 		
Fig. 8 		
Fig. 9 		

Fig. 10 		

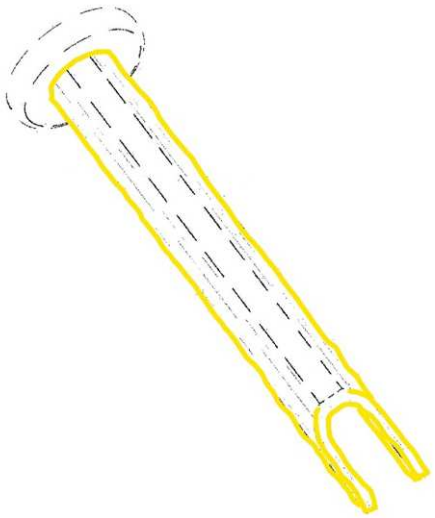
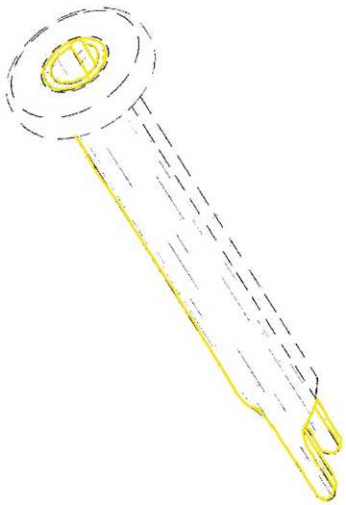
U.S. Design Patent No. D922,568	Omnia's Preliminary Construction (Prior Art)	PainTEQ's Preliminary Construction (Prior Art)
Fig. 1 		The elements of the 'D568 Patent highlighted in yellow are common in the prior art and, therefore, not protectable.
Fig. 2 		

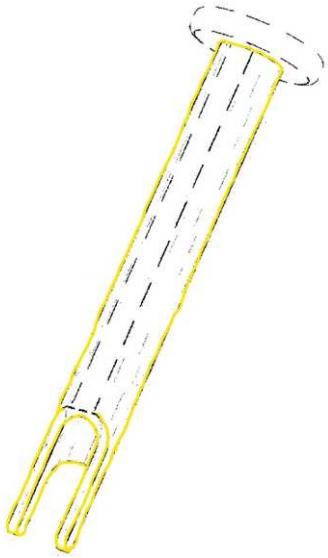
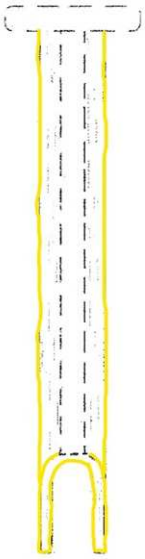
Fig. 3 		
Fig. 4 		

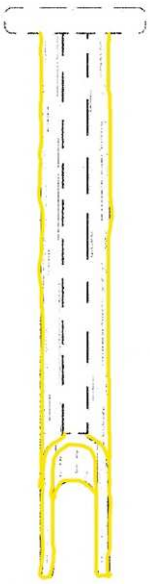
Fig. 5 		
Fig. 6 		

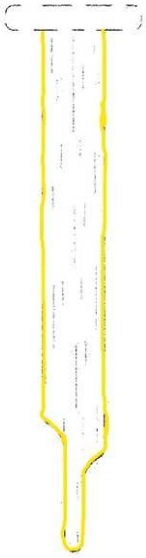
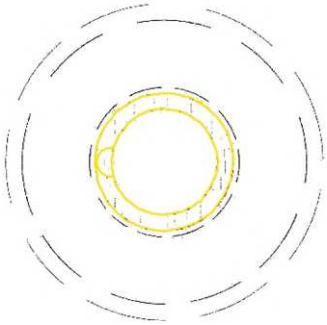
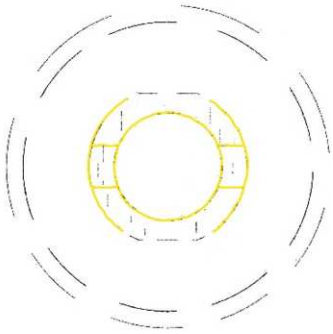
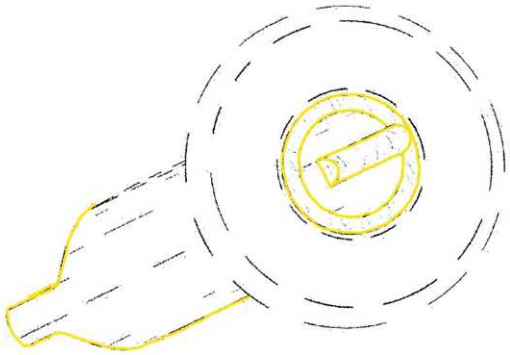
Fig. 7 		
Fig. 8 		
Fig. 9 		

Fig. 10 		

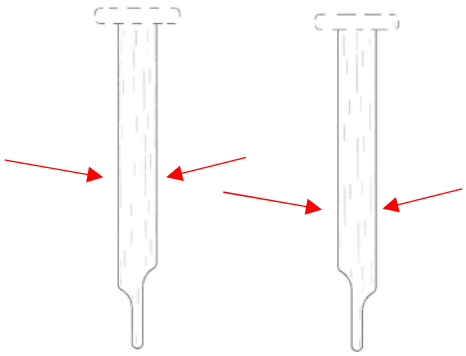
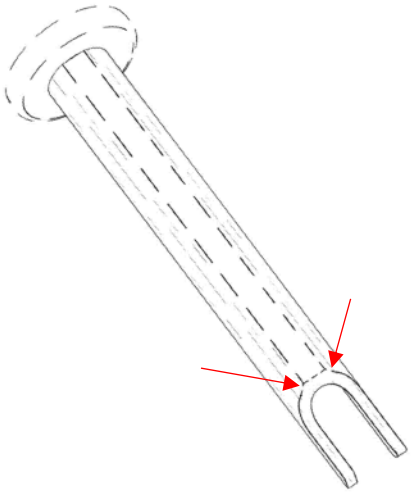
D'568 Patent Element	Omnia's Proposed Construction	PainTEQ's Proposed Construction
Fig. 5 Fig. 7 		The flat faces running along the length of the cannula are part of the claimed design, as shown in Figs. 5 and 7.
Fig. 1 	'D568 states, "The broken lines in the drawings illustrate portions of the surgical cannula which form no part of the claimed design."	A portion of the yoke of the tines is disclaimed, as shown in Fig. 1.

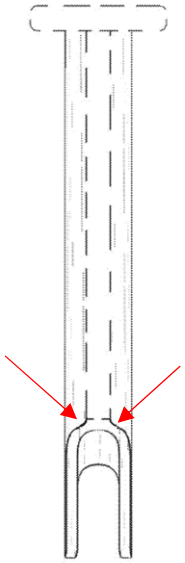
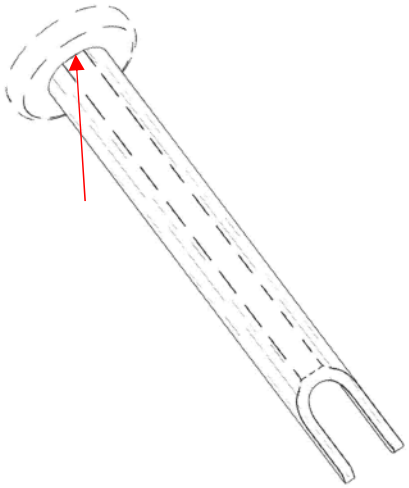
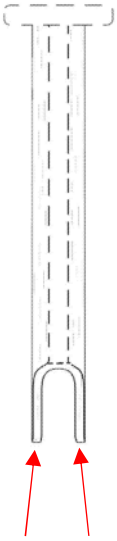
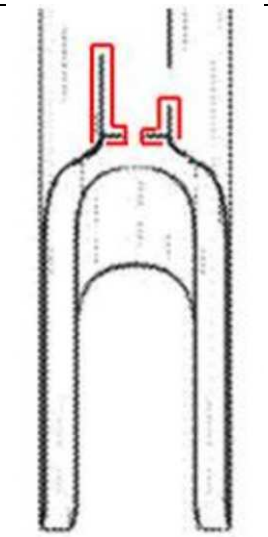
Fig. 6 		The transition of the design between the yoke of the tangs and the flat face is a smooth, curved transition, as shown in Figs. 5, 6, and 7.
Fig. 1 		The interface between the flat face and the top collar is a straight line and not curved, as shown in Figs. 1 and 3.

Fig. 4 		The tips of the tangs are outwardly flared, as shown in Figs. 1, 3, 4, and 6.
 Fig. 6	Outlined in red is part of the broken lines, not what PainTEQ is describing.	Fig. 6 claims an ornamental design of surface features outlined in red, at the points where the exterior edges of the tangs merge into the exterior surface of the cannula. Each edge line must have a visual appearance of branching out into a 90-degree design having a longitudinal run along the cannula and a transverse run across the cannula, wherein the left design must have a longer longitudinal run than the longitudinal run of right design.

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